

HONORABLE RICHARD A. JONES

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

T-MOBILE USA, INC., a Delaware
corporation,

Plaintiff,

v.

HUAWEI DEVICE USA, INC., a Texas
corporation,

Defendant.

Case No. 14-cv-01351-RAJ

JOINT AGREED INSTRUCTIONS

1 The parties, having met and conferred regarding jury instructions pursuant to Western
2 District of Washington Local Civil Rule (“LCR”) 51(f), hereby submit the following Joint
3 Agreed Instructions.

4 The parties expressly reserve the right to amend, supplement, or otherwise revise these
5 jury instructions including, but not limited to, based upon the parties’ stipulations, the Court’s
6 rulings on any pending or pretrial motions, a final determination as to the manner in which these
7 cases will be tried, proof at trial, Plaintiff’s or Defendant’s pursuit or abandonment of their
8 claims or defenses, or as is otherwise reasonable and appropriate.

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Duty of Jury

Members of the jury: You are now the jury in this case. It is my duty to instruct you on the law.

It is your duty to find the facts from all the evidence in the case. To those facts you will apply the law as I give it to you. You must follow the law as I give it to you whether you agree with it or not. And you must not be influenced by any personal likes or dislikes, opinions, prejudices or sympathy. That means that you must decide the case solely on the evidence before you. You will recall that you took an oath to do so.

At the end of the trial I will give you final instructions. It is the final instructions that will govern your duties.

Please do not read into these instructions, or anything I may say or do, that I have an opinion regarding the evidence or what your verdict should be.

Authority: Ninth Circuit Manual of Model Jury Instructions: Civil 1.2 (2017).

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1 The weight of the evidence as to a fact does not necessarily depend on the number of
2 witnesses who testify. What is important is how believable the witnesses were, and how much
3 weight you think their testimony deserves.

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5 *Authority:* Ninth Circuit Manual of Model Jury Instructions: Civil 1.14 (2017).
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JURY INSTRUCTION NO. 8

Foreign Language Testimony

You ~~[are about to hear]~~ ~~[have heard]~~ will hear testimony of witnesses who ~~[will be testifying]~~ ~~[testified]~~ testify in the Chinese language and see documents written in Chinese.

Witnesses who do not speak English or are more proficient in another language testify through ~~an~~ official a court-certified interpreter. In addition to the witness's interpreter, there may be a check interpreter provided by the other party. Although some of you may know the Chinese language, it is important that all jurors consider the same evidence. Therefore, you must accept the interpreter's translation of the witness's testimony or of Chinese text in documents. You must disregard any different meaning.

You must not make any assumptions about a witness or a party based solely on the use of an interpreter to assist that witness or party.

Authority: Ninth Circuit Manual of Model Jury Instructions: Civil 2.8 (2017) (modified as indicated).

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1 **JURY INSTRUCTION NO. 11**

2 **No Transcript Available to Jury**

3 During deliberations, you will have to make your decision based on what you recall of the
4 evidence. I urge you to pay close attention to the testimony as it is given. During deliberations
5 you will not have a transcript of the trial testimony.

6 If at any time you cannot hear or see the testimony, evidence, questions or arguments, let
7 me know so that I can correct the problem.

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9 *Authority:* Ninth Circuit Manual of Model Jury Instructions: Civil 1.17 (2017) (modified as
10 indicated); Hon. Richard A. Jones Preliminary Instruction to the Jury No. 11.

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1 do not use Internet programs or other devices to search for or view any place discussed during the
2 trial. Also, do not do any research about this case, the law, or the people involved—including the
3 parties, the witnesses or the lawyers—until you have been excused as jurors. If you happen to read
4 or hear anything touching on this case in the media, turn away and report it to me as soon as
5 possible.

6 These rules protect each party’s right to have this case decided only on evidence
7 that has been presented here in court. Witnesses here in court take an oath to tell the truth, and the
8 accuracy of their testimony is tested through the trial process. If you do any research or
9 investigation outside the courtroom, or gain any information through improper communications,
10 then your verdict may be influenced by inaccurate, incomplete or misleading information that has
11 not been tested by the trial process. Each of the parties is entitled to a fair trial by an impartial
12 jury, and if you decide the case based on information not presented in court, you will have denied
13 the parties a fair trial. Remember, you have taken an oath to follow the rules, and it is very
14 important that you follow these rules.

15 A juror who violates these restrictions jeopardizes the fairness of these proceedings[, and a
16 mistrial could result that would require the entire trial process to start over]. If any juror is
17 exposed to any outside information, please notify the court immediately.

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19 *Authority:* Ninth Circuit Manual of Model Jury Instructions: Civil 1.15 (2017) (modified as
20 indicated); Hon. Richard A. Jones Preliminary Instruction to the Jury No. 12.

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26 **JURY INSTRUCTION NO. 13**

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The plaintiff will then present evidence, and counsel for the defendant may cross-examine. Then the defendant may present evidence, and counsel for the plaintiff may cross-examine.

After that, you will go to the jury room to deliberate on your verdict.

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JURY INSTRUCTION NO. 16

Stipulations of Fact

The parties have agreed to certain facts {to be placed in evidence as Exhibit __}{that will be read to you}. You must therefore treat these facts as having been proved.

Authority: Ninth Circuit Manual of Model Jury Instructions: Civil 2.2 (2007).

1 **JOINT INSTRUCTION NO. 17**

2 **Expert Opinion**

3 You ~~[have heard]~~ [are about to hear] testimony from [name] who ~~[testified]~~ [will testify] to
4 opinions and the reasons for [his] [her] opinions. This opinion testimony is allowed, because of the
5 education or experience of this witness.

6 Such opinion testimony should be judged just like any other testimony. You may accept it
7 or reject it, and give it as much weight as you think it deserves, considering the witness's education
8 and experience, the reasons given for the opinion, and all the other evidence in the case.

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10 *Authority:* Ninth Circuit Manual of Model Jury Instructions: Civil 2.13 (2017).
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1 read or hear anything touching on this case in the media, turn away and report it to
2 me as soon as possible.

3 These rules protect each party's right to have this case decided only on evidence that has
4 been presented here in court. Witnesses here in court take an oath to tell the truth, and the accuracy
5 of their testimony is tested through the trial process. If you do any research or investigation outside
6 the courtroom, or gain any information through improper communications, then your verdict may
7 be influenced by inaccurate, incomplete or misleading information that has not been tested by the
8 trial process. Each of the parties is entitled to a fair trial by an impartial jury, and if you decide the
9 case based on information not presented in court, you will have denied the parties a fair trial.
10 Remember, you have taken an oath to follow the rules, and it is very important that you follow
11 these rules. A juror who violates these restrictions jeopardizes the fairness of these proceedings,
12 and a mistrial could result that would require the entire trial process to start over. If any juror is
13 exposed to any outside information, please notify the court immediately.

14
15 *Authority:* Ninth Circuit Manual of Model Jury Instructions: Civil 3.2 (2017).
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Authority: Ninth Circuit Manual of Model Jury Instructions: Civil 2.16 (2017).

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Counsel Plaintiff T-Mobile USA, Inc.